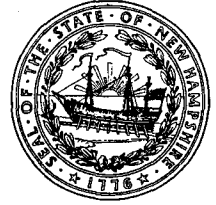


State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2147 FAX (603) 271-6588



John L. Caron  
11 South Street  
Somersworth, NH 03820

Re: 494 Silver Street, Rollinsford, NH  
Wetland File #2004-1146

**ADMINISTRATIVE ORDER  
No. WD 05-05**

March 22, 2005

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division to John L. Caron, pursuant to RSA 482-A:6. This Administrative Order is effective immediately upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 29 Hazen Drive, Concord, NH 03301.
2. John L. Caron is the owner of land located at 494 Silver Street, Rollinsford, NH 03869 and is an individual having a mailing address of 11 South Street, Somersworth, NH 03820.

**C. STATEMENT OF FACTS AND LAW**

1. RSA 482-A authorizes DES to regulate dredging, filling, and construction in or on any bank, flat, marsh, wetland, or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I the Commissioner of DES has adopted Wt 100 *et seq.* to implement this program.
2. RSA 482-A:3, I states that "[no] person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from [DES]."
3. RSA 482-A:14, III provides that "(f)ailure, neglect or refusal to comply with [RSA 482-A] or rules adopted under [that] chapter, or an order or condition of a permit issued under [RSA 482-A], and the misrepresentation by any person of a material fact made in connection with any activities regulated or prohibited by [RSA 482-A] shall be deemed violations of RSA 482-A".

4. John L. Caron is the owner of the property located on 494 Silver Street, Rollinsford, NH more specifically identified on Town of Rollinsford Tax Map 14 as Lot 24 ("the Property").
5. On May 17, 2004, DES received a complaint of alleged unauthorized filling of freshwater wetlands at the Property.
6. On June 8, 2004, DES issued an Alleged Violator ("AV") letter to John L. Caron. The AV letter requested that John L. Caron voluntarily refrain from carrying out any additional work in jurisdiction until a review of the property has been done.
7. On June 11, 2004, DES personnel conducted an inspection of the Property and found that approximately 1,250 square feet of wetlands had been filled in four locations on the Property.
8. On June 15, 2004, DES personnel received an electronic mail from John L. Caron inquiring about how to acquire a permit to "fill a wet void"
9. On June 16, 2004, DES personnel spoke with John L. Caron at the Property to discuss the unauthorized filling of wetlands on the Property and what corrective actions need to be performed.
10. On June 22, 2004, DES issued Letter of Deficiency WET 2004-0010 ("LOD") to John L. Caron. The LOD requested that John L. Caron perform the following:
  - a. By August 1, 2004, submit both an existing conditions plan and a restoration plan to restore approximately 1,250 square feet of wetland for review and approval by DES;
  - b. Retain a qualified wetland consultant to supervise and execute the requests of the LOD; and
  - c. Execute the restoration plan immediately upon receipt of the restoration plan approval from DES.
11. The LOD was received by John L. Caron on June 24, 2004, as evidenced by the signed postal receipt.
12. On August 10, 2004, DES received a request for an extension to October 15, 2004 from John L. Caron's agent, NH Soil Consultants, Inc., for submitting the requested items in the LOD.
13. On December 13, 2004, DES spoke with a representative of the Town of Rollinsford to determine if John L. Caron has submitted any information relative to restoration activities requested on the Property.
14. As of February 22, 2005 a review of DES records show that no permit was issued under RSA 482-A:3 to John L. Caron for the work observed on the Property.
15. As of February 22, 2005, DES has no record of the requested response relative to the restoration activities requested in the LOD.

#### **D. DETERMINATION OF VIOLATIONS**

1. John L. Caron has violated RSA 482-A: I by filling approximately 1,250 square feet of wetlands, located on the Property, without a permit.

#### **E. ORDER**

Based on the above findings, DES hereby orders John L. Caron as follows:

1. **By April 22, 2005**, retain a qualified environmental scientist to generate and submit an existing conditions plan showing the topography of the property, and quantifies by field survey the current extent of disturbance in jurisdictional wetlands, and a restoration plan. The restoration plan shall include:
  - a. A plan with dimensions for the removal of the unpermitted fill in wetlands as quantified in the existing conditions plan and regrading the disturbed areas to original contours;
  - b. Planting plan (forested/scrub-shrub wetland species) for the stabilization of the removal areas;
  - c. Proposed means of erosion control;
  - d. A construction sequence, including equipment and methods for completion of the restoration; and
  - e. A monitoring schedule, including three restoration progress assessment reports to be completed each year after restoration at the end of the growing season to be prepared by a qualified environmental scientist to be filed with the DES Wetlands Bureau.
2. **Within 30 days** of receiving written approval from DES, implement the plan as conditioned by DES.
3. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

David Price, Compliance Specialist  
DES Water Division, Wetlands Bureau  
50 International Drive, Suite 200  
Portsmouth, NH 03801  
Phone: (603) 559-1514  
Fax: (603) 559-1510  
e-mail: [dprice@des.state.nh.us](mailto:dprice@des.state.nh.us)

### F. APPEAL


Any person aggrieved by this Order may request DES to reconsider the Order within 20 days of the date of the Order. The request for reconsideration must describe in detail each ground for the request. DES may grant a rehearing, if in its opinion, good cause is demonstrated by the request. Any party not satisfied with the decision on reconsideration may appeal to the Wetlands Council. Please note that under RSA 482-A:10,II, the Council may not consider any ground that is not set forth in the request for reconsideration.

Filing an appeal or motion for reconsideration does not relieve John L. Caron of the obligation to comply with the Order.

### G. OTHER PROVISIONS

Please note that RSA 482-A:13 and 482-A:14 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. John L. Caron remains obligated to comply with all applicable requirements. DES will continue to monitor Mr. Caron's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Strafford County Registry of Deeds so as to run with the land.

  
Harry T. Stewart, P.E., Director  
Water Division

  
Michael P. Nolin, Commissioner  
Department of Environmental Services

Certified Mail/RRR: 7099 3400 0003 0695 1952

cc: Gretchen Hamel, DES Legal Unit  
Public Information Officer, DES PIP Office  
Jennifer Paterson, Sr. Asst. Attorney General, NHDOJ/EPB  
Rene Pelletier, DES Land Resource Management Program  
Mary Ann Tilton, DES Wetlands Bureau  
Town of Rollinsford Conservation Commission  
Strafford County Registry of Deeds